

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLN.(CONTEMPT PETITION) No 2 of 1996

in

SPECIAL CIVIL APPLICATION No. 1803 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE K.J.VAIDYA

Hon'ble Mr.JUSTICE D.G.KARIA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 & 2 - YES. 3 To 5 - NO

KHIALDAS J MANGHIMALANI

Versus

STATE OF GUJARAT

Appearance:

MR J.R.NANAVATI for Petitioner

MR J.M. THAKORE with MR A.J. DESAI for Respondent 1.

MRS R.V. ACHARYA for Respondents.

CORAM : MR.JUSTICE K.J.VAIDYA And

MR.JUSTICE D.G.KARIA

Date of decision: 31/03/97

CAV JUDGMENT (PER : VAIDYA J)

1. WHAT INDEED is the meaning of 'Economic Measures', (?) rather the concept in context of the public administration especially in people's representative Government, where it is obviously expected to be quite an alive, sensitive, fully public-oriented, efficient, immediately delivering goods to the needy section of the society without they being in any manner compelled to beg or to agitate and even revolt much less even demanding their rightful claims, in a given case also not denying on the ground of the "inadequacy of staff" and that too as a result of some arbitrary, capricious, and disoriented application of the said 'Economic Measures'? How, when, under what circumstances, where and certainly where indeed not such 'Economic Measures' should be judiciously applied and/or not applied is one of the foremost question going to the roots of the lack of basic understanding resulting into manifest inefficiency and the want of transparency and accountability in the public - administration, arising from the affidavit filed by the opponent Pension Department in this Contempt Application, wherein on the contemner ultimately complying with the order of the Court, notice came to be discharged. HOWEVER, bearing in mind, the most vulnerable, pitiable plight, rather the 'tale of woe' of many troubled, stranded and embarrassed, old pensioners one after the another continuously suffering at the hands of the Government for their very survival and in particular some of them solely suffering, depending upon the only and meagre income of monthly pension and the same just not coming to an end because of some unpardonable, gross and inordinate delay in finalising their pension cases on totally ridiculous and baseless ground of non-availability of the adequate staff and further that too because of quite an indiscreet 'Economic Measures' persued by the Government, this Court on its own in overall public-interest taking up the just and humanitarian cause of quite old and gradually becoming more and more old and disabled pensioners has decided to deal with and clarify the said concept of 'economic measure' conveniently misused and indiscriminately abused in its proper perspective. This is being done precisely with the view ultimately attempting to bring about an end and solve the most sorrowful, nagging and vexed problem eluding solution since number of years making restless the retired pensioners in their rest of life. We can never afford to forget for a minute even that barring few exceptions, most of the pensioners are indeed deserving Senior Citizens who have served the people through the Government for quite number of years and consequently

deserve utmost respect and care including the special concern, and treatment in matter of expeditious finalization of their pension cases at the earliest best. The reason is having served the Government for quite number of years, it is indeed their 'earned privilege' to live the rest of the retired life quite honourably and peacefully without any unnecessary problems atleast in matter of their pension papers ! To ask for pensionary benefits at the earliest from the very date of retirement is not something asking for any personal favour, mercy or charity from the officers' own pocket !! Further more, these pensioners are not slaves to be treated with the scant respect and humiliated. They are the free citizens having served the people through Government. Infact, officers in the charge of "pension papers" should never forget that a day in their life will also and is bound to come when they would retire and in case their pension papers were not to be finalized in time and delayed, their retired life may get equally perturbed and tranquility lost as the present-day lot of many pensioners ! It is with this background that this Court in overall public interests has tried to highlight certain avoidable deficiencies in the public administration and in particular quite an indiscreet and mechanical application of the 'Economic Measures', also recommending some ways and means to give fresh up-start, fresh look and total face - lift to the administration fitting in with the concept of " the Government of the people, for the people and by the people". In this regard, popular Government needs lot of honest, sincere and intense heart-searching to immediately find out without wasting its further time in the first instance how is it that despite having won Independence, and that to0 about 49 years back, best of its socio-economic welfare policies and to financially feed and meet with the same imposing nerve wrecking taxation every year its people apart from being unhappy, are further and further quite dissatisfied with rule of the Government ? The honest answer to this would obviously raise finger of accusation in direction of the inefficiency, lack of transparency and accountability and to quite some larger extent the corruption, nepotism and misrule also. Under the circumstances, in the second instance, the Government has got to find out the ultimate ways and means of more and more cleaning-up, tonning and recharging its administrative machinery, bureacracy which whenever ultimately found to be if impersonal, disoriented, inefficient, corrupt and out of date, then to give desired and efficient effect to the people's problem required to be solved immediately it should be so educated and where the need be even sternly dealt with

departmentally also. If this is just not done, then, in background of the present uncertain political scenerio, climate in the country neither our Constitutional rights nor those elected Members of Parliament, nor those of the Legislature by themselves would be of any help or the assistance to people to make concerned public servants work for them, unless once a while when the High Court and or for that purpose even the Apex court is so approached or otherwise of its own on suo-motu taking notice, interferes giving some mandate to the government and in particular concerned public servant to act legally and/or desist from acting illegally (as the case may be). If this constitutional remedy for whatever reasons is not resorted to then in that case, we are quite afraid that ignorant, choiceless, frustrated beyond the point of return people, letting out the steam of seething discontent taking law in their hands, resorting to some violance and terrorism may perhaps teach the costly life's lesson to the said 'public servant' model of inaction, arrogating and conducting themselves as the public bosses ! Infact, after 50 years of Independence and having experienced none too happy performances of some of our anti-people politicians and the public-administration, it is indeed high-time in this 50th year of the Golden Jubilee celebration of Independence for our wise, honest, sincere elected representatives of the people to precisely take the stock of the situation for knowing and realising that by and large our public administration is run and managed by some die-hard, orthodox, inflexible, insensitive and disoriented, out-dated in short undesirable public servants in one word known as the 'bureaucrats' !! Its an experience of many that they have indeed no idea rather they ignore the care and concern for the pulse and heart-beats of the people's real problems and aspirations. This inflexibility and insensitivity in the matter of public causes, public problems have as if become the characteristics rather the chronic disease of our day to day public administration, where the efficiency and public accountability is always at the discount, lowest-ebb and thrown to the winds in very nature of things ! When we say this so emphatically with all responsibility, it also needs to be atonce clarified to avoid any unnecessary misunderstanding here and now at this stage only that it is not that each and every politician or the public servant is alleged to be anti-people, bureaucrats. NO. That is not so and indeed that cannot be. The reason is like every clouds having some beautiful silver linings, in our allegedly hopeless dark cloud like public-administration, there are also some genuine, hopeful and ideal public servants of whom

the country can take just pride of, who straining their every nerve might have indeed helped, served, solved the public causes in quite an exemplary manner providing silver lining and thereby maintaining atleast some hope of the people in the Government ! But then barring few and far between exceptions taking an overall view of the matter, the State or the country where the 'Cult Of Bureaucracy' unfortunately has predominantly the upper-hand and hold the sway over the administration turning it to be wooden if not wholly diametrically opposed to the carrying for the democratic rights, values and expectations of the people in their own elected Government, the public interest can never, never thrive and progress to the desired extent despite some silver-lining provided by some honest, sincere, dedicated public servants to the dark cloud like administration more particularly when sometimes even some of the elected representatives of people also become hopeless 'turn coats' hostile to the people like hostile prosecution witnesses having no regards for the truth and ultimate justice." This is more so particularly with increasing frequency of political instability, party Government changing and changing fast now and then and like the 'weather-cock' changing direction with the every whisper of the swirling political winds !! In aforesaid view of the matter, rather hard, bitter fact reality, in a democratic set-up with the 'Rule of Law' ruling the country, the Government administration shall have to necessarily change its attitude, character and quality of working rather its ugly identity with 'bureaucracy' the word which is nauseating and antagonistic enough to the people's ultimate rights under the Constitution who are the ultimate sovereign. There is much thinking and scientific planning on 'defence' and 'development' of the country, but have we ever given any single minute thought and planning in matter of how to take out and save the country from the octopus-grip, clutches, of the devilish 'Bureaucratic Cult' , which because of its all pervasive, manifest inefficiency, red-tappism, woodenness, die-hardness and unaccountability has crippled, crushed and squeezed- out people's hope and aspirations and not allowed them to enjoy the fruits of independence and freedom !. If the historical year 1942 successfully challenged and mandated the Britishers to 'Quit India', let the year 1997 also be yet another historical year giving clear mandate and order to the 'Bureaucratic cult' to 'Quit India' and for this let us all strive hard to realize this goal. The reason is 'Democracy' and 'Bureaucracy' in a way, are virtually each other's antithesis, antonym, contradictions in terms. To have the true, meaningful democracy, the Government

administration also shall have to be necessarily pro-people reflecting 'VOX-POPULI', democratic. If the people have right to vote - out the party in power, if it does not serve and solve their problems, the public servant also on the very same accountability and transparency test must be dealt with and weeded out of power by finding out some reasonable ways and means to effectively regulate and control them. The machine or the system whenever it loses the grip, efficiency and does not give desired and expected service, it requires timely attention, servicing, screwing up and tonning-up if that will serve the purpose and if despite doing all these things, if position does not improve then bearing in mind further need requires changing the spareparts also and if this is also not done there remains no alternative but to condemn it out of use as 'scrap' as good as garbage to be dumped and destroyed or disposed off is an inescapable situation which must be faced to solve the problem ! In other words, in truly democratic State to keep-up and above, the democratic rights, values and culture of the people, the malignant 'virus of Bureaucracy' shall have to be kept under the strict vigil and control if in the first instance, the country wants to retain its character and quality of democracy, and in the second instance, in the alternative where its total elimination is not immediately possible. If this is not done, take it that the so-called 'Democracy' would be in name only and people would be haunted and ruled by the devil and curse of 'Bureaucracy', successfully spinning and spinning around webs over webs bringing about ever increasing distance between the people and its Government !! If the full moon of independence and democracy has lost its beauty and splendour in our country it is entirely because of its being double eclipsed by the lethargic dishonest bureaucrats and corrupt careerist ambitious politicians !!

2. FEW RELEVANT FACTS :- Khildas J Mandharamani, by this application under Contempt of Courts Act, 1971 has moved this Court inter-alia praying for punishing the Director of Pension and Provident Fund, Gujarat State, on the ground of wilfully disregarding the order dated 6th August 1996, passed by this Court (Coram: J.M.Panchal, J.) . The said order reads as under :-

"The respondent no.3 i.e. Director of Pension and Provident Fund, Gujarat State is hereby directed to fix the amount of pension payable to the petitioner as on September 22, 1973 on the

basis of notional pay fixed in the post to which the petitioner is found to be entitled to be promoted as per the direction given in this judgment and pay the difference of arrears of pension to the petitioner within two months from the date of receipt of the necessary orders from the Secretary to the Government, Narmada and Water Resources Department, Sachivalaya, Gandhinagar "

2.1 In above view of the matter, on 30.1.1996 when this matter was called out for admission before us, we passed the following order:-

"The grievance voiced by the petitioner is that though this Court (Coram: J.M.Panchal,J) by an order dated 6.8.1994, had directed the Director of Pension and Provident Fund, Gujarat State, to fix the amount of pension payable to the petitioner as on 22.9.1973 on the basis of the notional pay fixed in the post to which the petitioner is found to be entitled to be promoted, etc. within two months from the date of receipt of the orders from the Secretary to Government, Narmada and Water Resources Department, Sachivalaya, Gandhinagar, nothing has materialised till today leaving him in all lurch and guessing. This prima facie, quite contemptuous remissness on the part of the respondents is quite stunning and shocking enough inasmuch as that the petitioner who has retired long back, and has reached the age of 76 years, is denied his rightful pensionary benefits. When the Government is awarding pension to its employee, it is not out of any charity that they are granting. It is a precious legal right of every employee and that needs to be respected at the earliest and at any cost unless of course, his confidential report indicates something on the basis of which said right stands forfeited. To make its own employee to run from pillar to post because of the remissness and bureaucratic lethargy, on the face of it, reflects lack of social orientation and accountability, and accordingly it needs to be the direct concern of the concerned Finance Minister to remain constantly in touch with the problems so that old pensioners could be helped and saved from their avoidable heart-burning problems.

In this view of the matter, we direct, in particularly, Respondent no.3-Director of Pension and Provident Fund, Gujarat State, Khanpur, Ahmedabad to personally remain present before this Court (Coram: K.J.Vaidya and M.H.Kadri,JJ) On 5.2.1996, failing which a serious view could be taken. The Director of Pension and P.F., on that day, in the first instance, shall show cause why the contempt proceedings should not be initiated against him, and in the second instance, shall also inform us : (i) as to why such a gross delay has taken place in the present matter despite the specific direction of this Court ? (ii) as to why for the outstanding pension dues, order should not be passed for payment of the accrued interest to the petitioner, that too, from the personal pocket of the concerned Officers who are responsible for the alleged delay ? (iii) as to how many such cases of pension are pending defying the direction of this Court ? and (iv) what is the staff strength to deal with the same as expeditiously as possible and what further proposal it has made to the Government for the expeditious disposal of the pension cases ? Office is directed to communicate this order to Respondent no. 3 immediately. Direct service permitted."

3. On the aforesaid notice being served, on behalf of the respondent no.1 Mr. B.J.Parmar, Secretary, Narmada and Water Resources Department, State of Gujarat, on behalf of the respondent no. 2 Mr. C.B.Giridhar, Principal Secretary, Panchayat and Rural Housing Department and on behalf of the respondent no. 3 Mr. J.M.Gor, Director of Pension and Provident Fund, Gujarat State have filed their respective affidavits explaining facts and circumstances under which time-bound directions given to them pursuant to the order passed by this Court (Coram: J.M.Panchal,J) could not be complied with expeditiously within the stipulated period. Thereafter, Mr. H.B.Thaker, Deputy Director of Pension and Provident Fund, Gujarat State has also filed his further affidavit on 6.10.1996, highlighting some genuine difficulties coming in the way of his department in quite expeditious disposal of the pension cases. In this regard, we have indeed no reason to doubt or distrust Mr.Thaker who is the responsible officer of the Government. Accordingly, here, at this stage in overall public interest, it will indeed not be out of place to observe in general that it

is quite unfortunate in this country where sometimes even the genuine difficulties of some of the Government department itself which is required to be solved at the earliest best in over all public interests are just not attended or in case if at all attended to, they are attended so casually and cursorily as if the people were governed by some disinterested alien rule !! May be, may not be, but in a given case, if this grievance has any substance, it reflects the sad picture of total non-application and misrule by the concerned department as they say - Finance and General Administration Departments are the principal and key Departments where files because of few disoriented irresponsible dealing-hands in total disregards of the public duty are just tossed across playing with the precious public time of the Government and the concerned section of the Department forgetting altogether that alongwith that any delay in taking decision in the right earnest was bound to unnecessarily defeat the public interest and ultimately and incidentally enough the image of the popular Government and top-Secretaries also who may not have intended any delay to be at fault even. Not to spot and in turn weed out such black-sheep from the public administration which is the ultimate duty of the head of Department - failing which he himself obviously renders accountable.

4. CONTEMPT PROCEEDINGS - WHETHER MERE RUSE, DEVICE TO STEAL REALISE,ACHIEVE COURTS FAVOURABLE ORDER NOT COMPLIED WITH BY THE OTHER SIDE ? OR THE REAL CONCERN OF THE PETITIONER IS FOR COURT FOR ITS CONTEMPT BY THE OPPONENT ? This is one of the real and fundamental question in many contempt of court proceedings initiated by the parties when courts order or direction in their favour is just not complied with, or flouted, though undoubtedly the answer to it is none too secret rather to put it positively it is quite an open secret within the knowledge of all concerned !! The very same situation has incidentally arisen in the instant case also. When the matter was called out earlier, we have been informed by the learned advocate appearing for the petitioner that since the order passed by this Court (Coram: J.M.Panchal,J) now stands duly complied with, and the grievance of the petitioner having come to an end duly redressed, he did not intend to press this contempt petition any further, and accordingly the notice issued against the opponent may be discharged. Now ordinarily, when the grievance of the petitioner comes to an end being redressed and satisfied, we would have readily in the facts of the case put an end to the matter, more

particularly having heard Mr. J.R.Nanavati, the learned advocate appearing for the petitioner and Mr. J.M.Thakore, the learned Advocate General appearing for the contemnor. As a matter of fact, in the instant case also, ultimately we are going to discharge the notice of contempt issued against the contemnor, but then at the same time this case appears to be one of those many unfortunate cases reflecting the sad and sorry picture of thousands of troubled and stranded pensioners day in and day out, having some serious heart-burns grievances regarding delays in disposal of their pension cases where the department of the Director of Pension and Provident Fund for whatever good and justifiable or bad reasons allegedly not efficiently discharging its duties putting an end to their ordeal ! In this view of the matter, we instead of putting an end to the matter by short order, discharging the notice to contemnor have in over all public interest thought it fit to dwell at length on the most vexed and nagging problem eluding the permanent solution and recommend some effective steps in matter of departmental instructions and guidelines if it suits Government to accept and implement the same to earn credit, good name and blessings from the unfortunate lot of pensioners !!. Under such compelling circumstances, where the old pensioners have neither enough strength, time and will to resist the administrative evil of delays and uncertainty and get their pressing demands granted, quite expeditiously we indeed cannot shut our eyes to quite disgusting and continuous hardships and inconvenience to the old persons which has turned into ridiculous, shameful reality reflecting upon the typical apathetic bureaucratic approach. Accordingly in this view of the matter, though as stated above, the grievances of the petitioner in this particular case have come to an end, yet while discharging the contempt notice against the respondents, we deem it absolutely necessary, nay more than that rather a duty to make some pertinent observations and give necessary guidelines and direction to the Government so that difficulties of the type like the one felt in the instant case and those others of other types encountered and faced day in and day out by number of pensioners may not be repeated in future at the hands of the Government.

4.1. COMMON CAUSE-GRIEVANCES OF THE PEOPLE AND THE GROWING APATHY TO IT OF EVEN THE SIMILARLY PLACED AGGRIEVED CITIZENS !! UNDER THE CIRCUMSTANCES, WHAT INDEED OUGHT TO BE THE DUTY OF THE COURT IN SOME EXTRA ORDINARY PUBLIC CAUSES LIKE THE PRESENT ONE ?? - In contempt proceedings, it is simply unfortunate that

moment the grievances of the petitioners stand solved, they are no longer any more in mood or interested in continuing the contempt proceedings as if the contempt of the court quite synchronized, synonymized and symbolized standing identified only with the individual grievances of the petitioner and accordingly the said proceedings were meant as if to be utilised only as an execution lever for the purposes of encashing their one - sided, selfish individual grievances, gains, motives ! Infact, it is a matter of common experience that moment the grievances of the petitioner comes to an end-resolved, what indeed thereafter happens to the 'Contempt' of the Court the main plank and the basis on which the concerned court came to be reactivised and punishment came to be aimed at the opponent, no body bothers about it at all unless the court itself feels it to be a case where the contemner needs to be grilled and punished even despite the grievance of the petitioner coming to an end or he tenders an apology !! Such situations ultimately stand reduced to 'Contempt' of the aggrieved party and not the 'contempt' of the Court as many a time schemingly taken shelter behind !! This in a way in a given case could be quite selfish, scheming and unjust and accordingly to say the least is not proper. It is here that we believe that there are indeed some serious cases like the present one also where matter can not be permitted to rest by merely discharging the notice against the contemner with an instant and false sense of satisfaction by scoring cheap and easy disposal. Infact, the petitioner also as an accountable citizen of the country, even when his grievances in the case stood redressed was also quite supposed to be a responsible citizen quite caring for the rights and difficulties of like-wise affected other fellow pensioners and further accordingly simultaneously while taking care of his personal interest should also see to it rather insist upon this court that while getting his grievance redressed, he also stood by other similarly placed members of the society by way of his ultimate commitment to the cause of pensioners by obtaining necessary directions and guidelines from the Court to improve upon their situation where it was badly needed. Anyway, unfortunately, such things as not taking keen public interest in matters of other fellow-citizens in other words 'wooden-apatetic attitude' is gradually gaining ground becoming a second-nature in our society and an order of the day, though, ideally speaking that ought not to be . The self-centred individual who stands and cares for his selfish interest and gain alone without any care or concern for the rest of the members of the society, ultimately stands to lose, as often an individual interest either co-exists and survives

alongwith the overall social interest or perishes with the society with which he shares indivisible and unavoidable common fate !! Anyway, quite unlike the petitioner this court as a 'Constitutional functionary' will not have the feeling of satisfaction of discharging its obligation to the people viz old miserable pensioners if it also failed to make some absolutely necessary observations which may ultimately serve the noble cause of many hopelessly stranded and embarrassed pensioners. We accordingly while discharging the contempt notice against the respondent, however do hope and trust that (1) every contempt petitioner and for that purpose his learned advocate even, in overall public interest henceforth in appropriate cases will also take much needed special care and interest to see that not only his personal grievance sets at rest standing redressed, but also will further strive to champion the cause of other similarly placed aggrieved victims by relentlessly persuing the matter, to its legal and logical end if the need be by even specially requesting the court to give suitable directions and guidelines to the department to improve upon the situation. (2) The measures recommended herein in the later part of this judgment to provide adequate staff to meet with the backlog and increasing workload of the pension cases, will be accepted in toto to provide relief to number of helpless old pensioners because of delay in finalising their cases.

5. HARDSHIPS & INCONVENIENCES OF THE OLD PENSIONERS

:Turning back in particular to the problems of hardships and inconveniences of old pensioners, having heard Mr. A.J.Desai, the learned A.G.P. and the officers who were present before the Court, it appears that Pension Department has also some genuine difficulties in not being able to discharge its duties as efficiently to the best of the public expectations for want of 'adequate staff' where the Finance and the General Administration Departments can certainly play quite active, effective, efficient, positive, constructive and definite key role to salvage the vexed problem involved !! This absence of much needed prompt attention and follow up action by the Heads of the concerned Departments appear to be one of the major hurdle, road-block rather a serious bottleneck in smooth and efficient running of the Pension Department. In this regard, from what transpires from the affidavits filed by the officers and the discussion that took place in the Court, the Pension Department very much shares the anxiety and concern of the Court in matter of disposing of pension cases at the earliest best as expeditiously as possible so as to cutshort very many

avoidable heart burns of those persons who have already retired and yet pensions are delayed because of sheer inefficiency, depicting the picture of the deaf, dumb and blind administration !! According to the officers present, alongwith many other difficulties, practical difficulty of the Department today is the paucity of the staff. It was pointed out that in the year 1986, there were only 6000 pension cases and for that purpose there was a staff of about 300 employees. As against that, today the situation is so heart-breaking and unnerving that there are as many as 10,000 pension cases and to effeciently deal with the same the staff has not been correspondingly increased at all !! "Not only that, but because of revision of the higher grade scheme, the workload has much more further increased and it is because of this heavy trafficking of cases and paucity of staff that serious bottleneck in smooth process and disposing of the pension cases is created, as a result, despite best intention of the Department, it is indeed not able to cope up with the increasing, rising tidal waive of work." According to learned A.G.P., unless the staff is doubled, and or suitably increased, it will be simply impossible for the Department to dispose of cases as expeditiously as possible to the expectation and satisfaction of all concerned ? The existing staff today is about 289 employees, out of which 56 posts are vacant and 33 are reduced on the ground of "Economy measures." !! What an irresponsible and alarming state of situation ? In this regard, Mr. Thakar in para 2 of his affidavit has further stated that :-

" As stated in an affidavit filed earlier there are more number of cases of revision of pension in the Directorate, pending in comparison with the cases of regular pension, on account of issue of various Government orders on higher grade scheme. The resultant effect of those Government Orders is that the pension sanctioned earlier is to be revised with retrospective effect and due to the above reasons the number of revision cases were accumulated in the Directorate. Thereafter, a present deponent had initiated a proposal for prompt disposal of revision of pension cases with the Government in Finance Department. The Director had requested the Government to grant special remuneration to the employees who dispose of the revision cases as early as possible.

By Annexure "A" dated 20.09.1996 the Finance Department has accepted the request of the

Pension Directorate and granted special remuneration at Rs. 20/- per case for disposal of revision cases to the Employees of Pension Directorate. It is submitted that there are 5300 revision cases are pending in the Pension Directorate and it is hoped by the present deponent that all the revision cases will be disposed off on or before 20.11.1996.

As stated in an affidavit filed earlier the number of cases are being returned to the pension sanctioning authorities, since the Directorate receives the pension cases in incomplete shape. The Director had requested to Government in Finance Department to issue strict instructions to the pension sanctioning authorities to prepare and submit the pension cases as per time schedule prescribed by the Government from time to time. The Government in Finance Department on the request of the Directorate of Pension issued circular dated 21.9.96 Annexure "B" is the copy of the said circular. It is submitted that as per the said circular, detailed instructions have been given to the Pension Sanctioning Authorities to strictly adhere to the time schedule for preparation of pension cases and submission of pension cases to the Directorate of Pension and Provident Fund. The Government has also specifically directed the concerned administration departments and their subordinate offices that whenever there is a delay in preparation of pension cases and due to delay in receipt of pension cases in time the suitable punitive actions will be taken against the concerned Officers and employees.

It is submitted that as per Finance Department Resolution dated 24.10.1991 the Government has decided to reduce the total number of employees in all the Government Departments as an economic measure. Annexure "C" is the copy of the said Resolution. It is submitted that as per the said resolution, in the Pension Directorate also, 10% cut in the total number of posts of the Directorate was made applicable and it was also one of the reasons for delay in finalisation of pension cases on due dates. It is further submitted that the present deponent also requested the Finance Department to exempt pension directorate from the implementation of the resolution Annexure "C". The Finance

Department on 4.9.96 did not accept request of the exemption. It is submitted that thereafter on 20.9.96 the present Directorate has again requested the Government to reconsider the case of the 10% cut and also requested to fill up the posts which are vacant in the Directorate of Pension. The matter is under consideration of the Finance Department. Annexure "D" is the copy of the said letter dated 20.9.96."

6. We quite appreciate the genuine difficulty of the Pension Department voiced above, trying quite hard to impress upon us that it does not belong to the clan of that notorious 'Bureaucratic Cult' and is quite consciously public-oriented but for the unavoidable difficulties beyond its control to solve the problem involved because of the inadequate staff to handle the situation not provided ! But then here the question which further off-shoots yet another important question is 'what indeed the Government, I mean top-officers of it in actual charge and control, running the administration viz. the Chief Secretary, the Additional Chief Secretary, Finance and the General Administration Department, etc.etc. are doing in this/ such urgent important matter to immediately meet with the situation' ?? The reason is whenever the administration is befaced with such a serious problem, the ultimate overall accountability is undoubtedly that of the Chief Secretary !! He can't plead ignorance or defend the inefficiency and lack of accountability of the government administration, under his head and supervision on any count. He is by no means less important than the head and heart, the resolves and actions that follow in the name of the Government under his stewardship. He is the live link in between on the one hand the popular Government under the Chief Minister and on the other hand the supporting Secretariat, bearing the overall burnt of Government administration. Not only that, but the importance of the Chief Secretary is stil far more greater as the popular Government may change every five year or any time because of the Members of the Assembly many a time changing the loyalty, crossing the Floor, electing new leader as the Chief Minister ! Thus, he is a sheet-anchor also of the Government administration. He is like a captain of the ship trying to get across the ocean and all inside the ship look for correct directions, efficient propelling and safe landing at destination. We believe that quite ripe with wide and varied deep intelligence and experience, he knows that much !! May be on part of these officers also because of some genuine communication-gap or pressure of work or

even the absence of work-management culture nothing has been done so far in providing the adequate staff to the Pension Department ! But then this pretext is indeed not good defence as Should not the Government with little more discipline, anxiety, care, resourcefulness, imagination, thinking and planning, removing the hurdle of some communication-gap, constitute (if not constituted) a "Special High Power Cell " directly under the Chairmanship of the Chief Minister with the top-priority wise hit list of some vexed problems ready to be effectively continuously considered and resolved within the specified time limit as if constituted to solve some emergency problems arising out of some such sudden eventualities like flood, famine, earth-quake, war, breaking out of epidemics, communal riots/ and/or any other such sort of State or National, natural or otherwise calamities !! Here it may be noted that the natural calamities come quite unexpectedly, all of a sudden to be managed effectively and efficiently and yet quite wisely in anticipation of some such contingencies taking place at any time Government is often found to be quite prepared-ready to meet with the challenging situations ! As against this most of the administrative problems are already pending, while others are such which can be quite anticipated, precisely earmarked, carefully considered and efficiently and effectively dealt with, with quite some little ease without the tension of the emergency pressure . For this, the Government has indeed sufficient time to think, plan and economically adjust also. But unfortunately what the Government appears to be lacking is the broad perspective of the society oriented administration, the necessary 'WILL & IMMEDIATE TIME BOUND FOLLOW UP ACTION' and in the event of these things not happening to resolutely take account from the concerned officers in charge of the Department and if the need be by taking stern action against them ! In substance, the whole idea is that there ought to be on the one hand some definite time bound planning, minimizing public difficulties and on the other hand bringing about maximum good to the maximum people affected by particular problem. Without this work-workship, work religion, rather special work culture, no Government or any of its officers have moral right to continue in service of the people !! It is hardly required to be mentioned even that the Finance and the General Administration Departments are the key departments which can certainly play the pivotal, effective, efficient, constructive and the meaningful role to meet with the vexed problem of inadequacy of the staff provided some of its officers give-up quite an impersonal, die-hard bureaucratic character and approach

and adopt to the changing needs of the society, change their attitude accordingly fully realizing that they are the public servants, specifically appointed and exist to manage problems harassing the people, for which they are regularly paid by people and will also be paid after their retirement by way of pension as an ultimate burden on the public exchequer ! Moment this social obligation and moral lesson is understood, and the missionary sense of duty to stand by the suffering of the people and other public causes requiring immediate alternative dawns upon the conscience of the public servant. probably, the immoral bureaucratic vices would gradually come to an end atleast with some officers ! Undoubtedly, this sort of difficulties have got to be surmounted and surmounted resolutely and immediately by the Government at its earliest best which is the people's Government made of the elected representatives !! Here the question is, are not the members of bureaucracy accountable to the people for whom the Government have appointed them and paid from the tax paid by the very same people ! or perhaps there exists none for the time being to take their account where under such situations ultimately as events in the history if it holds out any good lessons to us to learn something from it, invariably show that the popular discontent when ignored, crosses the limit and ultimately reaching the flashing point explodes into terrorism and bloody revolution taking place as a natural consequences of irresponsible public administration, raising its head to take the account of all concerned with the compound interest ? These things do warrant serious and emergent consideration before the situation goes out of control, develops and reaches flashing point of no return ! We must understand that no community-society ordinarily wants any agitations, bloody revolutions if their basic needs of life are satisfied and in the event of some problem, Government solves it as early and efficiently as possible. To understand this further our public administrators and in particular our elected representatives manning the Government need to address themselves to be aware of the public psychology, socio-politico-economic history of overall social development and the ultimate common-sense to find out the ways and means and correct itself if it was walking on the wrong path, crushing peoples basic demands, hopes and aspirations bringing about utter frustration ultimately inviting and sowing the winds rather hurricane of terrorism, revolution and restlessness inviting their own destructions Here it is highly interesting and equally surprising to note that many a time, despite just and reasonable demands, humbly repeated time and again sometimes even by some responsible heads of the

Department and yet apart from being not responded, not shown even the basic courtesy of acknowledging and when by way of some writ petition or suo-motu petition High court and or for that purpose when the Apex court is approached, the same gets immediately magically redressed !! Government agreeing to court's suggestions apart commands. Why and how is it that the very same things without courts intervention and direction could not be earlier done gracefully when respectfully requested, demanded ? Does this not prove as self-evident that Government has either no guts and/or initiative or lacks necessary care, concern and anxiety to effectively deal with such problems unless pushed, pulled and compelled (?) We do not say unless taken on an anvil of the court jurisdiction and hammered out !!

7. WHAT ARE THE SOLUTIONS WHICH CAN HELP WORK OUT BETTER GOVERNMENT IN MATTER OF PENSIONERS PROBLEMS ?
Now, how to meet with the problem surfaced, we have THREE SOLUTIONS to offer which, the People's Government shall have to bear in mind and consequently seriously consider with a view to see that the Government (of the people ?) which is wedded to the welfare of the people and in particular to the most needy and deserving old members of the society who had served Government for number of years and are retired, do not retire from this world in frustration accusing and cursing the Government, as deaf, dumb, insensitive entity if not dead !!!. Accordingly, out of the three solutions, the first one is to provide adequate staff to (i) the Pension Department as well as (ii) Special Officer in each one of the Department where the retired Government servants serving from where pension papers are initiated and forwarded to the Director of Pension & Provident Fund, Gujarat State, covering in between; (iii) other Departments, if any. The second one is fixing the 'PERSONAL ACCOUNTABILITY' upon the concerned dealing-hand by strictly enforcing the directions and by taking stern departmental penal actions against those delinquents who are ultimately found to be in habit of fearlessly defying the directions of the Government in matter of efficient disposal of the pension cases, and the third one the continuous efforts by the 'Special Cell' (for the purpose) of the Government to enlighten, indoctrinate and co-ordinate all Government employees in matter of their social orientation, sense of public-duty, honesty, integrity, sincerity, hard-work etc. etc. etc. treating the Government service as a mission of life to serve human-beings. With further special care to see that administration gives up the notorious name and character to bureaucracy earned by

some of the public servants, which is indeed an antithesis to democratic set-up, peoples' needs and aspirations. The art of running a public-administration lies in well-planned, efficient and effective handling of problems with complete social orientation, transparency and overall accountability of each and every public servant. The die-hard, impersonal, inefficient, insensitive attitude has no place in the public administration especially in people's elected Government. This does not mean that the administration has to be pliable to each and every unjust, indiscreet demands of the vociferous few, rather those nuisance value brand making totally unjust demands. For this what is required by our public servants is little greater degree of (i) sincerity and honesty of purpose; (ii) instead of impersonal attitude, personal involvement, rather sense of commitment to causes of the people ; (iii) the sense and feeling of gratitude to the God that in these extremely hard-days of economic nightmare by getting employment they have indeed been blessed to discharge duty towards the family to maintain it , and on the other hand to also serve the society from the post they are working. Now here every employee of the Government invariably takes necessary care for monthly pay-packet to serve, maintain his family. Accordingly, that much part of the duty to family, every Government employee performs quite pleasantly. But then, when it comes to the point of serving the people, in many cases shoe starts pinching and accordingly there the account, picture is not that happy or encouraging !! Many such irresponsible public servants when approached by some persons in difficulty to be helped out are heard allegedly unscrupulously uttering such two sentences suiting to their exigencies viz. "MARE SHUN " ? what concern I have . In other words, I am not concerned with your problem; or "MARU SHUN" meaning thereby what about me rather what about greasing my itching palm ? Believe it not, this is the alleged common experience of many !! Under the circumstances, the most important question which every employee is supposed to ask his conscience is "Whether he fully discharges his duty to the people, society for whom he has been specially appointed and paid from the Trust-money of people ? Many employees unfortunately miserably fail to discharge their duties to the society; (iv) much needed heart-searching, self-introspection and constantly telling and demanding of the self as to how best he could help the people and further asking the second question to self whether he was doing all the best indeed expected of him to serve the society !! If this upright sense of human, patriotic, public duty orientation and awareness is enlightened in conscience of

our public servants, they will surely change, charge and re-charge themselves for better accounts, better service, very soon.

8. ECONOMY MEASURES AND ITS APPLICATION:- It is indeed quite true that like any sagacious individual when the Government also particularly when it is passing through some rough and tough financial crises or even otherwise by way of foresight and abundant caution, it has got to be quite careful, circumspect and accountable by immediately resorting to some pragmatic "economy measures." This indeed is quite fine, wiser and commendable move, which very much requires to be appreciated by anyone. But then at the same time, these "economy measures" are also required to be quite "wiser and intelligent enough" to be judiciously applied to be truly realistic and result oriented instead of getting itself boomranging the very purpose which more often than not actually happens. Any discriminatory, impersonal, mechanical, misapplication of 'economy measures' will counter-act and be counter-productive to the efficient public oriented Administration seriously prejudicing the public interest involved. Let this basic truth be one of the foremost guiding principle made alive and aware to the officers in charge of the public administration.

8.1 CRITERIAS OF 'ECONOMY MEASURES'- EARMARKED :

Bearing in mind precisely the above most pragmatic caution, rather unforgettable dictum of truth, we feel that there should be certain well defined criterias in matters of 'economy measures' that is to say - it should not be mechanically and blindly applied in each and every cases, irrespective of its importance and urgency, to the basic welfare of the people like providing the adequate staff in the Departments like (1) police entrusted with the maintenance of the 'Law and Order'; (2) the civil supplies dealing with the regulation, control and the smooth supply of the essential commodities; (3) dealing with water supply, irrigation and agriculture; (4) pension & Treasury (5) Hospitals which are absolutely essential, and for that purpose, even for (6) having more number of courts and Judges and in support of them much needed infra-structure to dispose of the threatening, explosive backlog of cases at the earliest, which directly affects the immediate public interest. In short, in all public utility essential services 'economy measures' can not be that lightly and indiscreetly applied. In day-to-day life of the society and individually also, we apply 'economy measures' to make two ends of income and expenditure meet. But then these

measures are applied first in matter of extra spending. So far as the minimum requirement (dire-need) is concerned, it is ordinarily never touched and if at all under some compulsion, it is required to be touched, then it is always last, when there is indeed no alternative left with the Government, but with great reluctance to resort to by way of some unavoidable extra ordinary emergency measures like life saving parachoot jumping from the flying aeroplane in event of it suddenly running out of fuel or its engine either catching fire or its machinery failing otherwise while on flight by way of emergency survival. Infact, there can not be any 'economy measures' in matters of absoloute needs till of course the extra, fanciful, avoidable expenditure is cut and yet there is a shortage to meet with the basic requirements. In this regard, the Income VS Expenditure Economic 'tug of war' rather pulls and counter pulls, the financial situation can be divided into three broad categories, Viz (i) the absolute, dire and indispensable requirements of the department in the elementary interests of society without which there is indeed no justification for the Government to exist; (ii) extra facilities without which Government could be easily run and accordingly could be cut-short; (iii) quite an avoidable extravaganza the spending spree that is to say amount spent on ostentation where by applying 'economy measures' the working of the Government is not going to suffer the least ! So far as the absolute need to run the Government is concerned, (like in the instant case to supply adequate staff to the Pension Department) the criteria of 'economy measures' should never be straightway and mechanically applied and accordingly it should be strictly confined to the matter where things are in nature of some sort of extra facilities which could be permitted, afforded provided only and only when the Government has got sufficiently surplus necessary resources by way of extra funds. Infact, if the Government honestly and sincerely thinks over the 'problems' of the 'economy measures', it can indeed immediately and easily spot-out which are those very many vulnerable expensive areas, items, zones which can be straightaway effectively covered and curtailed without touching upon the efficiency of the administration. But then this exercise in all probability appears to have been carefully avoided, perhaps apprehending that any sincere efforts to go to the roots of the genuine economy-drive, the same may incidentally and in all eventuality boomrang and snatch away their own easy going facilities !! Just to give some example of lavish expenditure IF INDEED TRUE on "kite flying festival" held every year on "Makarsankranti-day"; (2) Constructing

costly "Shamianas" and lavish spending on "Government organised functions" and other glittering inauguration functions; (3) throwing costly dinners on large scale on VIP visit; (4) some special Government Resolutions, if any, giving some extra benefit in favour of the privileged few officers; !! (5) Most uncontrolled travelling allowances which can reasonably be avoided and must be stopped; (6) as alleged, not making it compulsory for the Government servants using Government transport serving in Gandhinagar to stay in Gandhinagar only and not at Ahmedabad or at any other place. Here, with little honest and just discretion, quite sizeable amount of the public revenue could be definitely saved and spared which in turn can be wisely utilized for far more urgent important public services to the people already enlisted above ! Infact, question is not one whether some such Government functions are or are not necessary at all or useful. In some exceptional, special case, they may be ! But then the real question is when the large section of the society still lives below the poverty line and further still when one is surrounded by quite hostile circumstances like (i) limited rather the crisis of financial resources; (ii) as against that adding to the further headache of the Government ever-growing pressing demands, necessitating further expenditure on various important public welfare schemes and to manage them necessary additional administrative infra-structure; (iii) further requiring tapping of the additional financial resources where the people of the country stands already over-taxed and squeezed and gradually further grounded down in between the upper-stone of inflation and the lower stone of the increasing economic disability and yet as if this is not enough still further (iv) the threatening clouds of the breath taking taxation proposals ominously looming large every year and from that suddenly cracking of the lightening over the heads of already economically shattred middle and poor class of the society and to add fuel to fire to this (v) in some cases, increasing red-tappism, corruption and inefficiency, plaguing the bureacracy, are we still justified on the one hand blindly sticking to the irrational and missapplied 'economy measures', and on the other hand 'self flattering glittering functions' illuminated, with the money coming in the public exchequer from nowhere else but the blood, toil, tears and sweat of the honest tax payers money and the poor people upon whom the taxation burden is ultimately conveniently shifted bringing about steep hike in prices of the consumer-goods scrapping the urgent public utility services ? Infact, there are many such wasteful State luxuries or senseless expenditures

which can be easily and safely curtailed and must be curtailed utilizing the same for providing the adequate staff and other infra-structure facilities to the needy Department. The reason is how indeed can we be oblivious to the fact that every Naya Paisa poured in the coffers of the public exchequer come from the blood, toil, tears and sweat of the honest tax payers' money ? Must we not accordingly judiciously spend the same as trustees are certainly required to spend for their beneficiaries ? If we introduce concept of 'economy measures' in such important matters of pensioners for providing the adequate staff in Pension Department or Judiciary, it simply can not function and deliver the goods to the class of persons for whom it solely exists and who badly and immediately needs it ! 'Can we ever permit ourselves to be hard-skinned, insensitive, deaf, dumb, blind, mute, unmindful of such agonizing hard fact situation ? 'Economy measures' can not be reduced to 'economy in intelligence, non application of mind, irrational and discriminatory ' !! When handling Administrative problems befalling common men of the society for which we all necessarily exist, in the first instance it is required to be immediately attended to, in the second instance, carefully understood, in the third instance, to be sympathetically dealt with, in the fourth instance, without wasting any time to make all out efforts to successfully resolve it, and in case of not successful or partly successful then in the fifth instance to find out the reasons for the same, remove the difficulties and make fresh attempts till ultimately the goal is reached ! Infact, where this concept of 'economy measure' suddenly disappear in thin air when often for the political rather extra and/or ultra political reasons many a time ministry is to be unreasonably expanded ! Where indeed this 'economy measures' disappear when avoidable foreign visit by Government officers is arranged ? This is not to say the least that the ministry ought not be and can not be expanded or the public servant should not visit foreign countries when the public interest so warrants. Please do not misunderstand. Infact, unquestionably, it must and it is indeed the privilege, prerogative of the Chief Minister to exercise his wise discretion in overall public interest to expand the Ministry or permit foreign visit, where the court can not be permitted to over-step and dabble in the said matter unless the same is alleged and ultimately found to be indiscreet and on face of it against the public interest which rarely but as alleged does happen !! But then once again the most material question is where indeed this clay-footed bureaucracy conveniently singing the repeated songs, chorus of 'economy measures' in cases of other administrative

problems disappear when in the matter of moments only burden on public exchequer could materially and dangerously be increased jeopardizing the overall public interest buckling under the irresistible pressure of some influential and corrupt demands by someone ?

9. WHAT IS THE NET RESULT OF THE AFORESAID DISCUSSION ? The 'economy measures' should not be indiscreetly applied so as to ultimately boomrang the overall public interest proving it to be suicidal ! Accordingly, ban on providing the additional staff to the Director of Pension Department and for that purpose any other departments dealing with the basic needs of the people on the ground of 'economy measures' requires to be in the first instance discreetly, exercised which appears to be not the case here in the instant case and accordingly in the second instance the same is immediately required to be reviewed and lifted so far as the most important basic requirements in the overall interests of the pensioners are concerned. Accordingly, it should be strictly imposed where (today only if indeed true) many Government servants serving in Gandhinagar residing in Ahmedabad make daily up and down trips from Ahmedabad to Gandhinagar and then from Gandhinagar to Ahmedabad, to save the amount unnecessarily spent on special transportation at the cost of the public-interest ! While talking about the 'economy measures' have the Government ever thought about this colossal, wasteful burden on public exchequer which is filled with the money coming from honest tax payers rather pay masters of the public servants ! Unless quite an anxious care is taken to curb and cut off such indefensible futile spending, expenditures there is indeed no sense in conveniently projecting 'economy measures' in matters of much needed public services from the Government administration. No "economy measures" are indeed worth the name economy and sagacious, if they ultimately reflect the picture of 'the penny wise and pound foolish', or to use Gujarati adage "plugging the small let-outs keeping the doors wide-open ! (Khare Ducha Ane Darwaja Khulla) and ultimately are found to be senseless and counter-productive' !! Have the Government taken any account of how many rupees every year is spent by some of its officers on "To and Fro" from Ahmedabad to Gandhinagar and back to Ahmedabad on up and down trips in clear contrast to the economy measures applied in other sectors where it ought to have been avoided ? This itself by this time would have saved millions of rupees which could have been most usefully utilised for better services to the people and for that purpose in the instant case in providing more staff to many Government Departments. In this regards, where

indeed is now and then made tom, tom on economy measures ? Is it to be capriciously applied only in important matter of dire-needs of the pensioners, other needy people or providing some infra-structure to some new establishments under some special Acts ? What is the answer ? With this frank observation in this judgment, the eye-opener as it is if so treated, we hope and trust that the Government henceforth would do everything needful in favour of those persons who are retired/having served the Government for number of years carefully avoiding quite suicidal false economy measures and in particular making it compulsory for officers serving in Gandhinagar to stay at Gandhinagar and not at Ahmedabad. At this stage, the learned AGP submitted that there is indeed nothing on the record about the alleged unjust expenditure on transport by some Government servants serving in Gandhinagar and daily making up and down trips from and back to Ahmedabad and accordingly the same being irrelevant no reference be made expressing anything upon the point. Now if our reference/observation made above have indeed no foundation and bearing then it stands idle, and accordingly need not be bothered about to be taken seriously into consideration, but before the learned AGP could term it as 'irrelevant' and 'incorrect', he should better ascertain from the Government record right from the date Gujarat Government started operating from Gandhinagar and its employees in turn started shunting across Ahmedabad and Gandhinagar at the public costs whether it is true or not ? In this regard, the Telephone Directory of the year 1997 and even of earlier years issued by the Government of Gujarat also giving the details about the place of service and residence and respective different telephone numbers for the purpose would help the learned AGP in understanding the issue when this court says something with all responsibility in the public interest !! Infact, there are certain day-light clear things, very much written on wall, everyone practically knows it and accordingly which can be and ought to be taken judicial notice more particularly when it is so required in the overall interests in the first instance of the people of Gujarat and in the second instance of the Government which is nothing but the paid service agency managing affairs and Administration of, for and on behalf of the people from peoples' money. Further still, what we say here are saying in the overall public interest with "malice towards none and good-will to all ". Once again, there is indeed no malice or spite in it except bare and bonafide objective and constructive observation for the good of people and people's Government. Accordingly, it should not be taken as a criticism for the sake of

criticism. It is general and not against any particular. It is all constructive and bonafide . Infact, if any such errors are committed by the Administration of justice including by High Court on its judicial side , that also can be fairly criticized by the Supreme Court and are being criticized. Accordingly, it should not be understood as idle disparaging remarks against the Government or any of its officers taking it in spirit of the confrontation ! By giving the above illustration what this court ultimately means and aims at is apply 'economy measures' where it ought to be applied first . In other words, in matter of 'economy measures' there can not be double standards one for the personel benefits of the top Government officers who incidentally are in charge of managing affairs of the Government and the second one for the people. Officers who manages the affairs for the people on behalf of the people for them question of 'economic measures' does not arise at all, and others or the rest of the people who needs efficient services where 'economic measures' can be indiscreetly applied at the cost of their basic requirements and conveniences is something sinful double standard !! Here what is being criticized is the 'system' and not any 'individual'. We may certainly take it that whatever has been done so far by the Government and its officers may be quite honest, bonafide, but then when in the overall interests of maintenance of the 'Rule of Law' and the 'efficient public administration', something is required to be clarified and stated point-blank to point out things as they are where things are required to be urgently and honestly mended, amended and improved upon, in the first instance, it has got to be so frankly stated without any reservation, and in the second instance, quite sportingly appreciated, admitted and implemented . Infact, it indeed hardly needs to be further clarified in detail much less to be mentioned by passing reference even to those honest, sincere, up-right, positive thinking enlightened and responsible public servants manning the accountable Government Adsministration that whatever has been observed above is only and in overall public interest and has certainly not been observed in the spirit of any unwarranted and spiteful criticism placing the blame of indiscreet administration at the door of the Government, or any of its particular officer. No. We quite believe that in all probability only because the concept, angle and dimension from which the 'economy measures' in peoples' representative Government are specially required to be distinctly distinguished and viewed from as pointed out by us has not been done and fixed so far. And that is perhaps the reason why the 'economy measures' have been misapplied or in some case,

remained unapplied for want of the proper perspective highlighted above ! That must be so because we have indeed no reason to unnecessarily hasten and jump to the conclusion that our otherwise responsive and accountable public servants would quite strangely suddenly become thick-skinned unconcerned and callous, oblivious to the public interest involved with no sense of responsibility and public accountability. In fact, in the recent past, only we have had the excellent experience of the quite positive, constructive and efficient way in which the State Government stood by the Administration of Justice in bonafides of the long standing problem in Special Civil Application No.1475/96, wherein WHEN proper perspective of the requirements of the courts were highlighted and brought to the notice and consideration of the concerned departments and in particular Finance Department, we are indeed happy to say that without any resistance worth the name, or the reservation, Government granted Rs.1.10 crores in matter of few months only during the course of hearing complying with urgent, quite long outstanding some of them being basic requirements of courts ! This was not done for many many years though repeatedly requested to by some of the subordinate courts and yet WHEN the difficulties were pointed out in its correct perspective the same came to be expeditiously carried out, done with unexpected zeal and extra ordinary zest doing most marvellous and commendable work so much so that efficiency and accountability of each one of the officer who attended and solved problems on war-footings have been duly and fully appreciated and complimented in the judgment in no uncertain terms ! This was something par excellent performance to be believed and yet we being witness to it have certified the same as simply extra ordinary. Infact in that writ petition, Government has shown an exemplary attitude in solving the problem without taking usual shelter behind 'economy measures'. This would go to show that there is indeed no question of criticizing the Government Administration just for the sake of it as, afterall just like us the Administration of Justice the executive is also a useful limb of the State ! Still however the bitter realities are highlighted above, as we have felt it necessary to be referred to in overall public interest and the better administration. This has been done also with a view to further clear the 'economy measures' perspective to the Government and also to provide deserving stimulus and response to the dire-needs of the public in particular case of the pensioners. It can not be disputed that the public administration exists and exists only for minimizing the difficulties of the people on the one hand and on the other hand provide the maximum good for the

maximum people. In other words, it exists for the people and not at the cost of people ! We have indeed no doubt that this judgment shall also give the necessary insight and vision, food for the thought and the direction and impetus to Government in examining and implementing the 'economy measures' afresh in proper perspective and in overall interest of the people.

10. PROMPT PROCESSING AND THE EFFICIENT DISPOSAL OF PENSION PAPERS IS INDEED THE DIRE NEED OF THE HOUR, FAILING WHICH FIXING OF INEVITABLE STRICT PERSONAL ACCOUNTABILITY UPON THE CONCERNED DEALING HAND IS THE ONLY WAY-OUT :That takes us now to our second recommendation. We believe that with a view to expedite finalization of the pension cases, right from the date the same are prepared and take out first step and ultimately culminate in the last, sayihng "OK" or "NOT OK" as the case may be, that is to say, passing of the final order of pension, there should be direct, clear-cut, efficient and straightened-up line and the live link of action in between the first and the last step also tentatively making them time bound. For this purpose, from table to table from which the pension papers have to necessarily pass through and accordingly with a view to minimise if not possible to totally avoid or eliminate wasteful consumption of the time at various tables, the concerned officer or clerk on each table should be made to consciously and specifically record and accordingly shall record as to on what date and time the pension papers of "XYZ" came to be received on his table and thereafter on what date and time it got cleared and forwarded and if not cleared within three-four days or some other reasonably short stipulated period,, why indeed it took time for not early clearance ! This ought to be the must and is required to be stated on the first page of every pension file which shall be the sort of a Special Sheet "Rojkam Proceedings" indicating table to table, date-wise proceeding and movement of the file from one table to another table. If ultimately in a given case, it is found that the delay has taken place because of the manifest lethargy, inaction on the part of the concerned dealing-hand, then in that case, personal accountability can and must atonce be fixed upon that dealing-hand seeking necessary explanation and any consequential action if needed to follow within the shortest possible time bound limit. There is no other better way in the first instance to counter the bureaucratic vault face of insensivity and inefficiency and in the second instance, to arrive at the truth in fixing the personal accountability of the concerned dealing hand without putting to him piercing questions

(by head of the department) in the nature of cross-examination recording the statement and placing it on record of the case and confidential service file. This is not impossible, much less difficult even ! Infact, what is required to be done only, in the first instance is the 'Resolute Will WILL TO DO" of the Government to accept the suggestions of ours, and in the second instance, to keep ready and at-hand the printed proforma showing the name of the particular table officer, date, time and place of receipt of the file and when it came to be cleared and forwarded to whom ? with blanks to be filled in by the concerned dealing-hands in the third instance, constant and unfailing monitoring by the top most responsible officers checking and verifying whether the measures suggested above are strictly followed or not and in the third instance, capable head of the department monitoring the cases of concerned lethargic dealing hands involved in delaying the ultimate decision . This data can be fed in computers also to make available the necessary information in matter of seconds by just pressing the key only for the purpose ! This sort of rough and ready screening, watching, will immediately help Administration tracing out lethargy, inaction, remissness etc. etc. at the particular spot further inspiring making it determined, picking up the tempo, pushing and making the work done by some lazy-bones at different tables constraining them to be efficient enough under the high-voltage pressure of accountability, failing which, the nerve wrecking dangling sword of departmental action must fall on the Head of the concerned dealing-hands. Not only that, but so far as the pension papers are concerned, in the first place, Head of the Department to which the concerned pensioner belongs to, and simultaneously in the second place, the Head of the Pension Department to the extent permissible should be made personally accountable in seeing to it that they are quite efficiently cleared-up giving it top most priority at the earliest, right from the first step till last including at all intermediaries stages. Not only this, but there should also be some periodical meetings at regular interval atleast not beyond the period of three months between the aforesaid two concern Heads of the Department to review the situation removing hurdles, if any, in smooth disposal of the pension cases. To give striking illustration, priority and importance followed by relentless follow up action in matter of the pension papers needs to be given the top-most priority as given to the fire-brigade rushing to extinguish the fire !! Between the fire-brigade station and the place where fire is broke out it is rushing to extinguish the fire, all blockades

are required to be cleared and crossed through at any risk as far as possible without any halt. For this, the concerned Department will have to (i) maintain a Special Register; (ii) scrupulously monitor it by the Special Officer who in turn (iii) every week shall have to take stock of the situation from the concerned clerk and the officers and thereafter (iv) do the rest of the needful things to expedite papers, including taking effective departmental action in the event of gross or repeated remissness found on the part of the concerned dealing hand/s; (v) have special intelligence branch secretly watching the table work of each and every employee, and on detection of any inefficiency, lethargy or corruption to do the needful by placing the report before the Chief Secretary, who is ultimately responsible to give copy-book clean public-administration. Unless this sort of the live, transparent and open, efficiency and the result-oriented matter of fact work, culture and procedure is evolved, and strictly enforced and implemented like an army ordered to march on and attack enemy positions nothing could ever be effectively dealt with and achieved. The idea that only army should have discipline and efficiency and in case of any default committed by its concerned personnel he can be court-martialled and punished and that on the contrary as far as the civil services are concerned, the concerned public servant can conduct himself/herself in any leizurely indiscreet, inefficient, irresponsible and indisciplined manner with all sorts of impunities without any sense of accountability and in all cases of any remissness, noted on the part of the concerned public servant, no stern action can be taken or even if taken, taken after quite protracted proceedings for years, requires to be immediately scrapped and shelved. The reason is if army is entrusted with specially protecting the territorial sovereignty, integrity and ultimate freedom of the country from the external aggression, civil services are also no less important to be entrusted with equally important duty to deliver due fruits of freedom and independence to the people and also protect them from very many injustices perpetrated by quite inefficient and corrupt officers, black-marketeers and rest of other anti-social class exploiting the people from within the country !! Not only this, but in this highly competitive world, with other countries making rapid economic progress and cut-throat, shoulder to shoulder race competition if the Government administration is inefficient and corrupt and legs behind, it certainly can not keep the pace with other countries and ultimately to be left far behind high and dry and will obviously fail. It is here where economically stronger country will

dictate, create cold-war situations, war on nerves and thereby by the fear complex pressure, blackmail and command and exploit economically weaker Nations reducing the territorial integrity, independence and the political sovereignty to ZERO where administratively and economically are powerful would be ultimately and virtually world conquerer and defacto rulers and sovereigns ! Those crude out of days ways of waging the war, conquerring the territory of other countries by the military force making it colony and rule them have gone ! Now it is quite sophisticated shrewd and the subtle scheming International business strategy-wise competition rather unscrupulous economic warfare where economically sound would stratigically survive and give meaning to the political sovereignty. For this also as long as there is bureaucratic set up and corrupt politicians there is no way, no hope !! It is here where the efficiency of the civil administration has to keep pace and march along with the time and alongwith army efficiency and discipline. This is how the concerned clerk or the officer in Government officers working on each tables are required to be strictly indoctrinated deep-down their blood and bones and made to unforgetfully realise their respective responsibility as true patriotic citizen to work efficiently for the people, their pay-masters and failing which to be ready to be weeded out from the service on the [ground of inefficiency and/or corruption as the case may be. It is then and then only in that case, extent of delay in the public administration could be to quite some great extent curtailed and controlled, if not torally eliminated !! No democratic form of Government can ever deliver any goods to the people till bureaucracy through which it operates changes its character and quality of inefficiency and insensitivity to the pubnlic cause and conduct itself in an ideal public welfare oriented way and efficiently, failing which ruthlessly controlled by the popular Government manned by the honest elected representative of the people. In absence of these pre-requisites what the people will get would be hostile alien-rule. No doubt, theoritically the Government is headed by the people's representatives but quite often it is an experience of many where democracies have failed only because many a times the people they represent would not be the common-man but some anti-social lobbies ! What under the circumstances can you expect when unfortunately class of the representatives of the people are people of vested interests against common-man's interest ? Democracy can be successful only if the Government functioning under the system is manned by the peoples representatives who are truly self-less, service-oriented , dedicated to the

common-man with no personal aim, interest or ambition of the careerist and who would not hesitate to handle and mis-handle as he likes to suit his personal, group or the party-interest placing it above the peoples, country's interest. In other words what the country still and always needs is the leadership of the brand of pre-independence day 'self less crusaders' for the country and not the brand of 'selfish devourers of post seventies' ! Democracy in form only has indeed no meaning if in substance and spirit the people for whom it exists has no economic recognition from some die-hard bureaucrats, and the dishonest politicians to efficiently get solved their problems. Having said all these things in the end, we once again would like to repeat and impress upon the Government and the concerned officers who are dealing with the pension papers with that whatever we have stated above, namely "when the Government is awarding pension to its employees, it is not out of any charity or mercy that it is granting, rather it is a legal right of every employee and that needs to be respected at the earliest and at any costs ".

11. We hope and trust that the observations made and directions given hereinabove paragraphs, shall in overall public interest, be given their earnest and immediate consideration instead of placing them in the cold storage diplomatically giving long rope in name of 'under consideration' by way of typical red-tappism approach may be also because of pressure of work. For this purpose, the judgment shall at once be placed before the Hon'ble Chief Minister for his necessary perusal and beneficial orders and direction in overall public interest. Once again the reason is let us not forget those old-gentlemen citizens, who have served the people through Government for number of years and accordingly they in their last lap of journey of life may not unnecessarily given the feeling of let-down, disappointment and frustration at the hands of the Government itself.

12. One thing more, in the course of the hearing, we have received one letter dated 15-2-1996 from one Mr. B.D.Shah, Pensioner, Ahmedabad, though no address is mentioned therein. In this view of the matter, the said letter is directed to be kept on record. In the said letter, it is pointed out as under :-

The opponent Mr. J.M.Gor, incharge Director of Pension and Provident Fund is concealing certain information viz -

1. He is holding additional charge of the post of Director, Pension & Provident Fund since more than eight months.
2. Out of 20 working days in a month, he remains on tour or on leave for 10 days.
3. Out of 10 days available, he attends 5 days in pension office and remaining 5 days in his original office at Mental Hospital Building.
4. Thus there is no Head of office full time to watch, control, supervise and guide 20 officers and 200 staff members in Pension Directorate.
5. In absence of Head of office, the subordinates are at liberty to delay cases of pensioners and demand money from the pensions/agents visiting the office ".

12.1. We make it clear that since no address is given, we refuse to straightway mechanically accept the contents of the same. However, by way of abundant-caution in case if the allegations made therein are true, then in that case, the Government is required to take proper care by seeing that henceforth the Director of Pension whosoever he is, or for that purpose, any other officers anywhere in charge of the pension cases, is given full time posting to attend the pension matters only and exclusively for the simple reason that if the concerned officer is simultaneously required to hold charge of the other Departments also, and accordingly, required to ride two or many horses at a time, then in that case, in very nature of things, he may not be in a position to give full time attention to the pension matters, obviously thereby delaying and adding to the miseries of the pensioners from going bad to worst !! In this view of the matter, Government shall see to it that no such mistake is committed by entrusting the pension matters to some other officers by way of part time posting with a view to see that interests of pensioners is not unnecessarily delayed, damaged.

13. In the result, the contempt notice is discharged subject to the observations made in the above judgment.

14. REQUEST TO THE HON'BLE CHIEF JUSTICE TO CONSTITUTE SPECIAL BENCH TO FINALLY HEAR AND DECIDE THE

PENSION CASES :- We have been informed that number of writ petitions filed by the pensioners are pending final hearing and disposal before this court for quite some long time. In this view of the matter, on the humanistic grounds, incidentally like requesting the Government to expedite finalising pension papers, we would also like to request the Hon'ble Acting Chief Justice if it is possible, to direct the office to prepare a special urgent final hearing board of the pensioners' cases and notify the same giving top most priority for its disposal by entrusting it to special Bench constituted for the purpose. We feel that pension is something which let pensioner himself/herself enjoy during the life and not making it the subject matter of will in favour of heirs and legal representatives to get it if, as and when so finalized and awarded by the Government ! We accordingly direct the Registrar to immediately place a copy of this judgment before the Hon'ble Acting Chief Justice to pass appropriate orders at the earliest.

15. The Registrar is also directed to forward a copy of this judgment to (1) The Chief Secretary, Government of Gujarat; (2) Secretary, Legal Department; (3) Additional Chief Secretary, Finance Department; (4) Additional Chief Secretary, General Administration Department; (5) Director of Pension & Provident Fund, Gujarat State, Ahmedabad, for information and necessary action; and (6) President, Gujarat Pensioners' Sangh, Aviskar Building, Patel Vas, Madalpur, Ahmedabad-380 006.

Joshi/Prakash*